

§ 572.415

24 CFR Ch. V (4–1–03 Edition)

authorities listed in 24 CFR 50.4 are not applicable.

(b) *Implementation grants.* (1) Recipients of implementation grants must comply with the applicable environmental laws and authorities at 24 CFR 50.4 and must:

(i) Supply HUD with information necessary for it to perform any necessary environmental review of the property (or neighborhood);

(ii) Carry out mitigating measures required by HUD or select alternate eligible property; and

(iii) Not acquire or otherwise carry out program activities with respect to any eligible property until HUD approval for the property (or neighborhood) is received.

(2) Before any amounts under this part are used to acquire or rehabilitate an eligible property, HUD must determine whether the proposed activities trigger applicability thresholds for the applicable Federal environmental laws and authorities. These may apply when the property is:

(i) Located within designated coastal barriers;

(ii) Listed on, or eligible for listing on, the National Register of Historic Places; or is located within, or adjacent to, an historic district;

(iii) Located near hazardous operations handling fuels or chemicals of an explosive or flammable nature;

(iv) Contaminated by toxic chemicals or radioactive materials;

(v) Located within a runway clear zone at a civil airport or within a clear zone or accident potential zone at a military airfield; or

(vi) Located within a special flood hazard area or within a location requiring flood insurance protection.

(3) A recipient may choose to make the threshold reviews itself or with assistance from State or local governments or qualified persons or to refer the property to HUD for threshold review. Where the recipient makes the threshold review itself, it must submit the result to HUD.

(4) If a recipient chooses not to make the threshold reviews, it must submit information to HUD to permit HUD to make the review.

(5) If HUD determines on the basis of the recipient's threshold review or

HUD's threshold review that one or more of the thresholds are exceeded, HUD will conduct an environmental review of that issue and, if appropriate, establish mitigating measures that the recipient must carry out for the property unless it decides to select an alternate property.

§ 572.415 Conflict of interest.

(a) *Conflict of interest.* In addition to the conflict of interest requirements in OMB Circular A-110¹ and 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the recipient or cooperating entity named in the application and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter, except that a resident of an eligible property may acquire an ownership interest.

(b) *Exception.* HUD may grant an exception to the exclusion in paragraph (a) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the HOPE 3 program and the effective and efficient administration of the local homeownership program. An exception may be considered only after the applicant or recipient has provided a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict, a description of how the public disclosure was made, and an opinion of the applicant's or recipient's attorney that the interest for which the exception is sought would not violate State or local law. In determining whether to grant a requested

¹See § 572.425(b) concerning availability of OMB Circulars.

exception, HUD will consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the local homeownership program that would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class intended to be the beneficiaries of the activity and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process, with respect to the specific activity in question;

(5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(6) Whether undue hardship will result either to the applicant, recipient, or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

§572.420 Miscellaneous requirements.

(a) *Application of OMB Circulars.* (1) The policies, guidelines, and requirements of OMB Circular Nos. A-87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments) apply to the award, acceptance, and use of assistance under this part by applicable entities, and to the remedies for non-compliance, except where inconsistent with the provisions of NAHA, other Federal statutes, or this part. Part 84 of this title (Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations) and OMB Circular Nos. A-122 (Cost Principles Applicable to Grants, Contract and Other Agreements with Nonprofit Institutions)

and, as applicable, A-21 (Cost Principles for Educational Institutions) apply to the acceptance and use of assistance under this part by covered organizations, except where inconsistent with the provisions of Federal statutes or this part. Recipients are also subject to the audit requirements of OMB Circular A-128 (Audits of State and Local Governments) implemented at 24 CFR part 44, and OMB Circular A-133 (Audits of Institutions of Higher Learning and Other Nonprofit Institutions), implemented at 24 CFR part 45, as applicable.

(2) Copies of OMB Circulars may be obtained from E.O.P. Publications, room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395-7332 (this is not a toll-free number). There is a limit of two free copies.

(b) *Requirements in 24 CFR part 5.* The Disclosure requirements; provisions on Debarred, suspended or ineligible contractors; and Drug-Free Workplace requirements, as identified in §5.105 (b), (c), and (d) of this title, apply to this program.

(c)-(d) [Reserved]

(e) *Labor standards.* If other Federal programs are used in connection with the HOPE 3 homeownership program, labor standards requirements apply to the extent required by such other Federal programs.

(f) *Flood insurance.* Pursuant to the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128), the recipient may not provide financial assistance for acquisition or rehabilitation of properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(1) The community in which the area is situated is participating in the National Flood Insurance program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and

(2) Flood insurance is obtained as a condition of the acquisition or rehabilitation of the property.

(g) *Coastal Barrier Resources Act.* Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3601), HUD will not approve use of properties in the Coastal Barrier Resources System.